

Notice of Allowability

Application No.

10/698,160

Examiner

David Guzo

Applicant(s)

YU ET AL.

Art Unit

1636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment filed 9/29/07.
2. ☒ The allowed claim(s) is/are 1,3,4,7-10 and 12-20.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date 11/13/07.
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

Examiner's Amendment

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with James F. Haley Jr. on 11/13/07.

The application has been amended as follows:

In the **Claims**:

Claim 1 (Currently Amended): A replication-competent adenovirus vector comprising a first adenovirus gene essential for replication under transcriptional control of an Epstein ~~Barr~~ Barr-Virus (EBV)-specific transcriptional regulatory ~~element~~ element (TRE) comprising a sequence selected from the group consisting of a sequence upstream of the translational start codon for the LMP1 gene, wherein said sequence is presented as SEQ ID NO:1, a sequence upstream of the translational start codon for the LMP2A gene, wherein said sequence is presented as SEQ ID NO:2 and the Cp promoter sequence ~~presented as~~ which is SEQ ID NO:3.

Claim 3 (Currently Amended): The adenovirus vector according to Claim 1, wherein said EBV-specific TRE comprises ~~the LMP1 sequence set forth in~~ SEQ ID NO:1.

In Claim 4, line 2, delete the phrase "presented as" and substitute the phrase --which is--. Also, in line 3, delete the "." after "70".

Claim 7 (Currently Amended): The adenovirus vector according to Claim 1, wherein said EBV-specific TRE comprises ~~the LMP2A-EBV sequence set forth in~~ SEQ ID NO:2.

Claim 8 (Currently Amended): The adenovirus vector according to Claim 1, wherein said, EBV-specific TRE comprises the Cp promoter sequence, which sequence is set forth in SEQ ID NO:3.

Claim 9 (Currently Amended): The adenovirus vector according to Claim 8, wherein said EBV-specific TRE further comprises the FR enhancer sequence, which sequence is set forth in SEQ ID NO:4.

Claim 10 (Currently Amended): The adenovirus vector according to Claim 1, wherein said EBV-specific TRE further comprises the FR enhancer sequence, which sequence is set forth in SEQ ID NO:4.

It is noted that claim 1 has also been amended to correct typographical errors in line 3 of said claim.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Guzo, Ph.D., whose telephone number is (571) 272-0767. The examiner can normally be reached on Monday-Thursday from 8:00 AM to 5:30 PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Woitach, Ph.D., can be reached on (571) 272-0739. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

David Guzo
November 13, 2007


DAVID GUZO
PRIMARY EXAMINER